

## **WARREN COUNTY BOARD OF SUPERVISORS**

**COMMITTEE: CRIMINAL JUSTICE**

**DATE: MAY 21, 2014**

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**COMMITTEE MEMBERS PRESENT:**

SUPERVISORS KENNY  
MONROE  
VANSELOW  
BROCK  
SEEBER  
SIMPSON

**OTHERS PRESENT:**

JASON M. CARUSONE, FIRST ASSISTANT DISTRICT ATTORNEY  
ROBERT IUSI, DIRECTOR OF THE PROBATION DEPARTMENT  
MARCY FLORES, FIRST ASSISTANT PUBLIC DEFENDER  
JOY LAFOUNTAIN, ASSIGNED COUNSEL ADMINISTRATOR  
KEVIN B. GERAGHTY, CHAIRMAN OF THE BOARD  
JOANN MCKINSTRY, ASSISTANT TO THE COUNTY ADMINISTRATOR  
MARTIN AUFFREDOU, COUNTY ATTORNEY  
JOAN SADY, CLERK OF THE BOARD  
FRANK E. THOMAS, BUDGET OFFICER  
SUPERVISORS FRASIER  
TAYLOR  
WOOD  
GINA BORKOWSKI, CONFIDENTIAL SECRETARY TO THE FIRST ASSISTANT  
PUBLIC DEFENDER  
BUD YORK, SHERIFF  
DON LEHMAN, *THE POST STAR*  
SAMANTHA HOGAN, LEGISLATIVE OFFICE SPECIALIST

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**COMMITTEE MEMBER ABSENT:**

SUPERVISOR DICKINSON

In the absence of Committee Chairman Dickinson, Mr. Kenny, acting as Vice-Chairman, called the meeting of the Criminal Justice Committee to order at 10:34 a.m.

Motion was made by Mr. Brock, seconded by Mr. Vanselow, and carried unanimously to approve the minutes from the previous meeting, subject to correction by the Clerk of the Board.

Privilege of the floor was extended to Marcy Flores, First Assistant Public Defender, who distributed documents to the Committee members; *copies of the items distributed are on file with the minutes.*

Ms. Flores began by introducing Gina Borkowski, Confidential Secretary to the First Assistant Public Defender.

Commencing the agenda review Ms. Flores presented the following requests:

- 1) Request to amend the County Budget to increase estimated revenues and appropriations in the total amount of \$72,667.42 to reflect the receipt of 2014 New York State Office of Indigent Legal Services (NYS OILS) grant funding and the carryover of unexpended 2013 NYS OILS grant funding.

Motion was made by Mr. Vanselow, seconded by Mr. Simpson, and carried unanimously to approve the request and refer same to the Finance Committee. *A copy of the resolution request form is on file with the minutes.*

- 2) Request to ratify actions taken and authorize the County Treasurer to pay retention salary increase and appeals stipends to the Public Defender staff, pursuant to NYS OILS Contract No. C000252.

Ms. Seeber noted that it was difficult to make decisions on matters such as these when first seeing the request and she asked that in the future, the agendas be made available to the Committee

members in advance of the meeting and Ms. Flores agreed to do so. With regards to the current request, Ms. Flores explained that the salary increase and appeals stipends to the Public Defender staff was entirely funded by reimbursements in NYS OILS grant funds; however, she noted, approval by resolution was necessary to access the funds.

Motion was made by Ms. Seeber, seconded by Mr. Simpson, and carried unanimously to approve the request as presented and the necessary resolution was authorized for the June 20<sup>th</sup> Board Meeting. *A copy of the resolution request form is on file with the minutes.*

Privilege of the floor was extended to Robert Iusi, Director of the Probation Department, who distributed copies of the Probation Agenda to the Committee members, a copy of which is on file with the meeting minutes.

Commencing the agenda review, Mr. Iusi presented a request for himself to attend the 2014 New York State Council of Probation Administrators Summer Conference and Training Seminar in Niagara Falls, NY from 6/22 - 6/25/14. He noted that there was no cost to the County for this Seminar and that he would use a fleet vehicle for his travel.

Motion was made by Mr. Simpson, seconded by Mr. Monroe and carried unanimously to approve the travel request. *A copy of the Authorization to Attend Meeting or Convention form is on file with the minutes.*

Next, Mr. Iusi presented a request to prepare and submit an updated Ignition Interlock Program Plan to the New York State Division of Criminal Justice Service (NYS DCJS). He added that the updates had been requested by NYS DCJS due to recent amendments to Leandra's Law which required DWI offenders to install ignition interlock units in their vehicles. Mr. Iusi stated that the Probation Department had done the original plan, and therefore would take care of the update; however, he noted, a resolution would be necessary to authorize submission of the updated Plan, as well as for the Chairman of the Board to sign it.

Motion was made by Mr. Monroe, seconded by Mr. Simpson and carried unanimously to approve the request as presented and the necessary resolution was authorized for the June 20<sup>th</sup> Board Meeting. *A copy of the resolution request form is on file with the minutes.*

Moving on to Old Business, Mr. Iusi reminded the Committee that at their prior meeting he had presented a listing of equipment needed to enhance safety for Probation Department personnel conducting home visits. He noted that since that meeting, he had developed a more detailed equipment list which included the associated costs; Mr. Iusi advised that this enhanced list had been emailed to the Committee members prior to the meeting. He commented that although safety was very important, the measures proposed would incur additional costs to the County. Mr. Iusi proceeded to review the listing, noting that he preferred to address these equipment needs by priority, using funding in the existing budget due to changes in staffing which left about \$20,000 available. He proposed that the equipment be purchased in a systematic manner to economically obtain the items, addressing the most prevalent needs first. Mr. Iusi noted that he would delay the purchase of visibility jackets and search gloves, which did not present a pressing need, putting them off until the end of the year in an effort to determine alternate funding sources. He continued that he believed he would be able to purchase other items, such as emergency car kits, hazardous material bags, etc., which he estimated would total about \$800, throughout the course of the year using other funding identified within the existing budget. Mr. Iusi advised he would like to purchase the body armor and radios for the vehicles (*costs totaling \$23,450*) by transferring money from funding remaining in the salaries budget codes; he then presented a request for a transfer of funds in the amount of \$20,878 between various salary and equipment codes which would be used for the purchase of body armor and radio equipment. He further advised he had applied for a NYS DCJS

"bulletproof vest" grant opportunity in conjunction with the Sheriff's Office which would provide up to 50% reimbursement of the body armor costs. Mr. Iusi advised the grant awards would be announced in the fall of 2014 and he noted they had been deemed eligible for up to \$4,650, which would assist in reimbursing some of the body armor costs.

With regards to the radios, Mr. Iusi estimated a cost of \$4,200 per car for a total of \$12,600 to outfit all three cars. He commented that the aforementioned transfer would allow two vehicles to be immediately outfitted with radios and he noted that the Sheriff's Office was willing to allow use of their outfitter for the installation at no cost. Mr. Iusi said that if the bullet proof grant funding was awarded, he would like to use that funding to complete the remaining radio installation work and possibly to make additional equipment purchases.

Mr. Monroe inquired about the cost of the radios, noting that they might be able to purchase them at a lesser cost. Mr. Iusi answered that the quotations for the radio equipment had been provided by Brian LaFlure, Fire Coordinator/Director of the Office of Emergency Services, and he noted they had been looking for radios similar to those used by Sheriff's Office to ensure they would work in the more secluded areas of the County, which may have led to a higher cost. Mr. Monroe asked if a Request for Proposal (RFP) had been released for the radio equipment purchases and Mr. Iusi responded that he did not believe so, but said he would check with Mr. LaFlure and get more specifics on the emergency radios for presentation at the next Criminal Justice Committee meeting. Mr. Iusi commented that if the Committee was comfortable in doing so, they could approve the transfer of funds and he would refrain from spending them until after the additional radio equipment information had been presented.

Motion was made by Mr. Monroe, seconded by Mr. Vanselow and carried unanimously to approve the request for a transfer of funds and refer same to the Finance Committee. *A copy of the request is on file with the minutes.*

Privilege of the floor was extended to Joy LaFountain, Assigned Counsel Administrator, who distributed information to the Committee members; *copies of the items distributed are on file with the minutes.*

JoAnn McKinstry, Assistant to the County Administrator, announced that she had assisted Ms. LaFountain in preparing one of the resolution request forms presented, seeking to ratify the actions taken and authorize the County Treasurer to pay a retention salary increase to the Assigned Counsel Administrator pursuant to Contract No. C000252. She added that this request was similar to the one previously approved for the Public Defender staff and she noted that 100% reimbursement for these costs would be provided by NYS OILS grant funding; she noted that separate resolutions were necessary for the two Departments.

Motion was made by Mr. Vanselow, seconded by Mr. Simpson and carried unanimously to approve the request as presented and the necessary resolution was authorized for the June 20<sup>th</sup> Board Meeting. *A copy of the resolution request form is on file with the minutes.*

Next, Ms. LaFountain presented a request to rescind, amend and update resolutions/policies to reflect current billing procedures and vendor voucher submission for assigned counsel. She explained that there had been an issue with three vouchers submitted by FitzGerald, Morris, Baker, Firth PC for services rendered in 2012, *copies of which were included in the information she had distributed*, two of which were not assigned by her office. Ms. LaFountain said that she had spoken with Attorney Martin A. Cohen about whether these vouchers could be submitted, and had advised him it was too late to submit the vouchers as that they had exceeded the 45 day allowance for submission and could no longer be considered for payment. Subsequent to this conversation, Ms.

LaFountain said Attorney Cohen had contacted Paul Dusek, County Administrator, who indicated that the vouchers should be submitted for payment, as referenced in the letter accompanying the three vouchers.

Referencing a folder she had distributed containing several different resolutions, *a copy of which is on file with the meeting minutes*, Ms. LaFountain pointed out that Resolution No. 404 of 2004 set a deadline for submission of Assigned Counsel vouchers, allowing them to be submitted for "up to three (3) years one (1) month from the date of disposition". She then pointed out Resolution No. 748 of 2004, which she said amended Resolution No. 404 of 2004 to address an issue with relating to late voucher submissions in the amount of \$14,300; she noted that the policy outlined in Resolution No. 404 of 2004 had been modified by five subsequent resolutions, none of which rescinded or negated the previous ones, as they should have, leaving them open to a multitude of problems. Ms. LaFountain stated that since she had begun her employment with the County she had consistently worked to make sure that the attorneys submitted vouchers in line with the work they were performing and ensure they were adequately compensated, always following the 45-day submission rule. She concluded that she was now seeking guidance from the Committee as to how she should proceed in addressing the three vouchers she had received, totaling \$5,688.94, for work that was completed almost three years ago, far beyond the 45-day limit.

Martin Auffredou, County Attorney, said he had spoken to Mr. Dusek about this issue, and had also examined the resolutions presented by Ms. LaFountain. He then questioned whether Ms. LaFountain intended to refrain from paying the vouchers submitted and Ms. LaFountain responded that based on the direction provided to her, they should not be paid. Mr. Auffredou stated that he had a different view of this situation, indicating that in his opinion, while the subsequent resolutions Ms. LaFountain referenced may have been based upon Resolution No. 404 of 2004, they did not supercede its effectiveness. Therefore, he stated, he did not believe they had any basis to withhold payment for the vouchers submitted by FitzGerald, Morris, Baker, Firth PC as no resolution indicated that payment would be withheld for any vouchers not submitted within a 45-day time frame. Mr. Auffredou said that if the Committee was in favor of implementing such a resolution, they would not be able to do so retroactively, and he asked that any such action be delayed until after Mr. Dusek was able to provide his opinion on the matter. He commented that while it was unfortunate that the vouchers had been submitted so late, and he understood the need to have rules in place, he would hate for the rules to become so restrictive that they failed to recognize the services these attorneys provided to indigent residents at very low rates, which typically resulted in a cost to their own firm: He added that at this time, they should not be indicating the vouchers would not be paid and that Attorney Cohen should be given the opportunity to speak on the matter, as well.

Mr. Monroe agreed with Mr. Auffredou's comments, indicating that he had worked in the Court system and knew how little these attorneys charged for their services. He agreed that it was unfortunate the vouchers had been submitted late, but it did not seem right to state that they would not be paid for the work already completed simply for submitting vouchers late. In fact, Mr. Monroe commented, they were essentially making an interest free loan to the County by not being paid until three years after the work was completed.

Following further discussion, motion was made by Mr. Monroe, seconded by Mr. Brock and carried unanimously to table this issue for further discussion at a future Committee meeting where Mr. Auffredou and Attorney Cohen could be present to speak on the matter.

Privilege of the floor was extended to Jason M. Carusone, First Assistant District Attorney, who distributed documents to the Committee members, copies of which are on file with the minutes.

Mr. Carusone, presented the following requests:

- 1) Request to amend the County Budget to increase estimated revenues and appropriations in the amount of \$4,000.00 to reflect monies received from the Federal Bureau of Investigation for payment towards a confidential investigation.
- 2) Request for a transfer from the Sheriff's Office share of the seized Assets Reserve (Budget Code A.886.00), Reserve, Forfeitures Crime, to the District Attorney's budget in the amount of \$3,562.50 to provide funding for a confidential investigation.

Motion was made by Mr. Vanselow, seconded by Mr. Monroe, and carried unanimously to approve the requests as outlined above and refer same to the Finance Committee. *Copies of the resolution request forms are on file with the minutes.*

- 3) Request to apply to the NYS DCJS for Aid to Prosecution grant funding in an amount not to exceed \$29,200 for the term commencing April 1, 2014 and terminating March 31, 2015.

Motion was made by Mr. Monroe, seconded by Mr. Simpson and carried unanimously to approve the request and the necessary resolution was authorized for the June 20<sup>th</sup> Board meeting. *A copy of the resolution request form is on file with the minutes.*

- 4) Request to increase the annual salary for Kathleen Hogan, District Attorney, from \$140,300 to \$152,500 to reflect a mandated salary increase.
- 5) Request to amend the County Budget in the amount of \$18,678.97 to reflect the difference in Ms. Hogan's salary from the April 1, 2013 increase to \$146,400 and the April 1, 2014 increase to \$152,500.

Mr. Carusone explained that this increase would not impact the cost to the County because the difference would be covered by the State.

Motion was made by Mr. Simpson, seconded by Mr. Monroe and carried unanimously to approve the request and refer same to the Personnel Committee; *a copy of the request is on file with the minutes.*

Motion was made by Mr. Simpson, seconded by Mr. Monroe, and carried unanimously to approve the request to amend the County Budget, as outlined above, and refer same to the Finance Committee. *A copy of the resolution request form is on file with the minutes. Note: Subsequent to the meeting, it was determined that an additional amount of \$6,100 would be provided by New York State for the 2014 salary increase for the District Attorney and a source of funding for the remainder of \$12,578.97 would be determined by the Finance Committee.*

There being no further business to come before the Criminal Justice Committee, on motion made by Mr. Simpson and seconded by Mr. Monroe, Mr. Kenny adjourned the meeting at 11:12 a.m.

Respectfully submitted,  
Samantha Hogan, Legislative Office Specialist